

1

ORDINANCE NO. 08-68

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO EXTEND THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT REGULATIONS ON PROPERTY LOCATED AT AN ACTIVITY NODE AREA HAVING A LAND USE CLASSIFICATION OF CENTRAL BUSINESS DISTRICT PURSUANT TO HIALEAH CODE § 98-1630.8. **PROPERTY LOCATED AT 157 WEST 5 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 25, 2008 recommended approval of this ordinance; and

WHEREAS, the property is located at an activity node area as defined by Hialeah Code §98-1628 and otherwise meets all the characteristics of sites eligible for expansion of the Neighborhood Business Overlay District regulations pursuant to Hialeah Code §98-1630.8; and

WHEREAS, the proposed design complies with all the requirements of the Neighborhood Business District regulations and the location has the potential of turning into a landmark that will emphasize the entrance to the civic center and downtown area from Okeechobee Road; and

WHEREAS, the Petitioner proffers to a declaration of restrictive covenants and to obtain a building permit for the proposed plan of development, subject to site plan review, on the property within twenty-four months from the effective date of this ordinance, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a special use permit (SUP) to extend the Neighborhood Business Overlay District regulations. The

property is located at 157 West 5 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 1 THROUGH AND INCLUDING 4, AND LOTS 20 THROUGH AND INCLUDING 24, BLOCK 17, OF TOWN OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 77, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE SOUTH 85 FEET OF LOT 21 AND LESS THAT PORTION OF LOT 24 DESCRIBED IN THAT CERTAIN ORDER OF TAKING KNOWN AS PARCEL 137, IN SECTION 87-090-2503, (ITEM SEGMENT: 249839 1), AS RECORDED IN OFFICIAL RECORDS BOOK 18590, AT PAGE 1342 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of the Declaration of Restrictive Covenants.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a

revocation of the Special Use Permit issued in connection herewith and the property shall revert to the zoning classification without the benefit of the Neighborhood Business Overlay District regulations.

Section 6: Severability Clause.

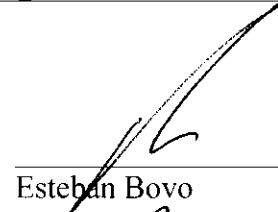
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 26th day of August, 2008.

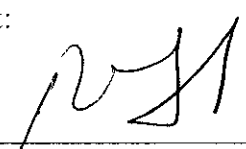
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



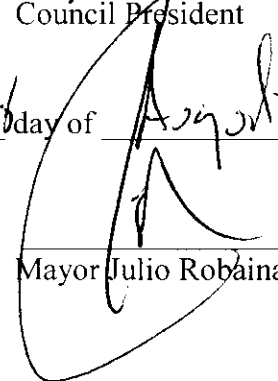
Esteban Bovo
Council President

Attest:

Approved on this 26 day of August, 2008.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

CFN 2008R0765124
DR Bk 26573 Pgs 4965 - 4969 (5pgs)
RECORDED 07/18/2008 15:55:43
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

DECLARATION OF RESTRICTIVE COVENANTS

I, Julio Navarro, individually and as a duly authorized officer on behalf of CANAIMAN INVESTMENTS, INC., a Florida corporation, MANHATTAN CONSTRUCTION INVESTMENT, INC., a Florida corporation, and OVI INVESTMENTS, INC., a Florida corporation, being the owners of lands described herein:

Lots 1 through and including 4, and Lots 20 through and including 24, Block 17, of TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 5, Page 77, of the Public Records of Miami-Dade County, Florida, Less the South 85 feet of Lot 21 and Less that portion of Lot 24 described in that certain Order of Taking known as Parcel 137, in Section 87-090-2503, (Item Segment: 249839 1), as recorded in Official Records Book 18590, at Page 1342 of the Public Records of Miami-Dade County, Florida.

The street property address is 157 West 5th Street; Hialeah, Florida 33010

The folio numbers are 04-3118-001-2130, 2131, 2140, 2260, and 2265

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenant, represent and agree as follows:

1. The premises, being legally described above, shall be developed pursuant to a building permit issued within twenty-four (24) months from the effective date of the ordinance granting a special use permit extending the Neighborhood Business Overlay District (NBD) regulations and in substantial conformity with the site plan dated April 9, 2008, prepared by Novus Archetype, LLC.
2. As a means of enforcement for any violations of these restrictions, the undersigned consent to the revocation of the special use permit and loss of enjoyment of the incentives and benefits of the NBD regulations. Thereafter, the premises shall only be developed pursuant to the applicable regulations of the underlying zoning classification.
3. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
4. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set our hands and seals at Miami Lake, Florida, this 25 day of 2008.

Signed, sealed and delivered in

The presence of:

Bonnie Heffernan

Witness (2 witnesses required)

Typed/Printed Name Bonnie Heffernan

Julio Navarro

Owner

Typed/Printed Name Julio Navarro

Clara Martinez

Witness

Typed/Printed Name CLARA MARTINEZ

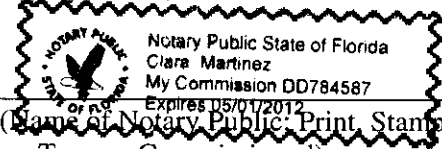
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 25 day of August, 2008, an officer duly authorized in the State of Florida and in the County of Miami-Dade, to take acknowledgments, personally appeared JULIO NAVARRO and _____, to me known to be the person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 25 day of August, 2008.

Clara Martinez

Notary Public, State of Florida



(Name of Notary Public: Print, Stamp, or Type as Commissioned)

- ☒ Personally known to me, or
☒ Produced identification

FL DEWARDS LICENSE
Identification produced:

- ☐ DID take an oath
☒ DID NOT take an oath

Attest:

Name of Corporation:

CANAIMAN INVESTMENTS, INC.

By:  President

Typed/Printed Name Julio Navarro

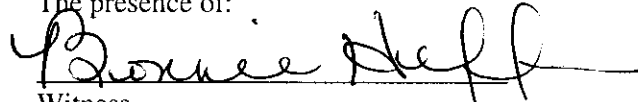
Signed, sealed and delivered in

By: _____

Secretary

Typed/Printed Name _____

The presence of:



Witness

Typed/Printed Name Bonnie Heffernan



Witness

Typed/Printed Name CLARA MARTINEZ

Corporate Seal

Witness

Typed/Printed Name _____

Witness

Typed/Printed Name _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 25 day of August, 2008, by Julio Navarro as President, and _____, as Secretary, of Canaiman Investments, Inc., a Florida corporation.

They are personally known to me or have produced the following FL DRIVERS LICENSE as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained therein.

This document was prepared by:

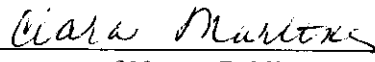
Name

Street

City

State

Zip Code


Signature of Notary Public
Notary Public State of Florida
Clara Martinez
My Commission DD784587

Notary Public
Notary typed, printed, or stamped
Commission Number

Attest:

Name of Corporation:

MANHATTAN CONSTRUCTION
INVESTMENT INC.

By: President

Typed/Printed Name Julio Navarro

By: Secretary

Typed/Printed Name Elizabeth Gonzalez

Signed, sealed and delivered in

The presence of:

Bonnie Heffernan

Witness

Typed/Printed Name Bonnie Heffernan

Clara Martinez

Witness

Typed/Printed Name CLARA MARTINEZ

Bonnie Heffernan

Witness

Typed/Printed Name Bonnie Heffernan

Clara Martinez

Witness

Typed/Printed Name CLARA MARTINEZ

Corporate Seal

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 21 day of August, 20 08
by Julio Navarro as President, and ELIZABETH GONZALEZ as Secretary, of Manhattan
Construction Investment, Inc., a Florida corporation.

They are personally known to me or have produced the following FL DRIVER LICENSE as
identification and did (did not) take an oath and who attest to the truth and accuracy of the representations
contained therein.

This document was prepared by:

Name

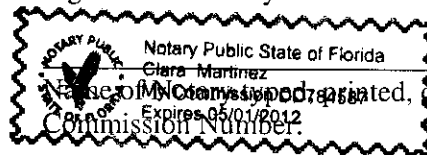
Street

City

State

Zip Code

Clara Martinez
Signature of Notary Public



Attest:

Name of Corporation:

OVI INVESTMENTS, INC.

By: President

Typed/Printed Name Julio Navarro

Signed, sealed and delivered in

By: Secretary

Typed/Printed Name _____

The presence of:

Bonnie Heffernan

Witness

Typed/Printed Name Bonnie Heffernan

Clara Martinez

Witness

Typed/Printed Name CLARA MARTINEZ

Corporate Seal

Witness

Typed/Printed Name _____

Witness

Typed/Printed Name _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 25 day of August, 2008,
by Julio Navarro as President, and _____, as Secretary, of OVI
Investments, Inc., a Florida corporation.

They are personally known to me or have produced the following FL DRIVER LICENSE as
identification and did (did not) take an oath and who attest to the truth and accuracy of the representations
contained therein.

This document was prepared by:

Name

Clara Martinez
Signature of Notary Public

Street

Name of Notary typed, printed, or stamped
Commission Number:

City State Zip Code

